

1. Liberty may use the Home Run running to the apartment of each Liberty Resident as to which a written form approved by TWCNYC requesting termination of TWCNYC's cable service and signed by the Liberty Resident has been received by TWCNYC but only for so long as such resident wants to receive Liberty's SMATV service rather than TWCNYC's cable service.

2. TWCNYC will schedule disconnect appointments for each apartment as to which such signed written form has been received by TWCNYC. The appointments shall be scheduled in an orderly manner. During the appointments, TWCNYC technicians will disconnect the appropriate Home Runs from the Existing System, install locking terminators, if appropriate, and permit Liberty technicians to connect the Home Runs to the Liberty system. During the appointments, TWCNYC technicians will also collect and remove its equipment, as appropriate, including, without limitation, any converter boxes, A/B switches and remote controls. Neither Liberty nor the Board will remove TWCNYC equipment from apartments or disconnect TWCNYC's cable service. TWCNYC, Liberty and the Board will cooperate with each other to minimize delays during the appointments. Nothing herein shall prevent TWCNYC from using normal disconnect procedures with any resident who contacts TWCNYC directly.

3. Neither Liberty nor the Board will interfere with the provision of TWCNYC's cable service to any resident of the Building who wants it, either now or in the future. TWCNYC may resume use of any Home Run upon request for TWCNYC's cable

service by a resident whose apartment is served by such Home Run. Without limiting the generality of the two preceding sentences, neither Liberty nor the Board will use, damage, disconnect or remove any element of the Existing System or otherwise interfere with or prevent TWCNYC's access to the Existing System or TWCNYC's use or maintenance thereof, except as expressly permitted by paragraph 1 above.

4. This agreement and the rights and obligations imposed herein shall continue in full force and effect, and shall inure to the benefit of and remain binding upon the parties hereto and their respective successors and assigns for so long as TWCNYC or any successor or assign is a franchised cable television company.

5. The parties shall keep this agreement (and its contents) strictly confidential and may use or disclose it only to the extent necessary to enforce it in a court of law.

6. No amendment, modification or waiver of this agreement shall be binding or effective unless it is embodied in a written instrument signed by all of the parties hereto.

7. Unless the context otherwise specifically requires, words importing the singular include the plural and vice versa. The terms "hereto" and "herein" and similar terms relate to this entire agreement and not to any particular paragraph or provision of this agreement.

IN WITNESS WHEREOF the parties hereto, intending to be  
legally bound thereby, have executed this agreement.

Time Warner Cable of New York City,  
a division of Time Warner  
Entertainment Company, L.P.

By: 

Title: Sr. VP Eng. Tech Op

Liberty Cable Company, Inc.

By: 

Title: 

Board of Managers of the Horizon  
Condominium

By: 

Title: President

W. JAMES MacNAUGHTON, ESQ.

*Attorney at Law*

90 Woodbridge Center Drive • Suite 610  
Woodbridge, New Jersey 07095

Phone (908) 634-3700

Fax (908) 634-7499

June 22, 1994

Ms. Eileen Huggard  
Department of Telecommunications  
and Energy  
City of New York  
75 Park Place, 6th Floor  
New York, NY 10007

Re: Complaint Against Paragon Cable Manhattan

Dear Ms. Huggard:

I represent Liberty Cable Company, Inc. ("Liberty"). I am writing on behalf of Liberty to complain about a violation by Paragon Cable Manhattan ("Paragon") of its New York City Franchise obligations, Executive Law § 828, and the Cable Home Wiring provisions of the Federal Communications Commission, 47 C.F.R. § 76.802. Paragon has been proposing to building owners in its franchise area an illegal Cable Installation Agreement (the "Agreement"), a copy of which is enclosed. The Agreement provides that Paragon will install a conduit system in a new building under construction (the "Conduit System"). The Conduit System will, upon completion, be owned by the building owner and used by Paragon to provide cable television service to building residents. However, Paragon will be the sole and exclusive user of the Conduit System.

The Agreement provides at ¶ 4(b) that "Paragon's right and privilege to utilize, and install equipment or facilities in, the Conduit System, including inside any junction boxes, pull boxes, lock boxes or gem boxes appurtenant to the Conduit System, shall be exclusive, and owner shall not permit any other person to utilize, or install equipment or facilities in or appurtenant to, the Conduit System without Paragon's prior written consent."

The effect of Paragon's exclusive control of the Conduit System is that Liberty and other multichannel video programming distributors ("MVPD's") are precluded from ever providing competing cable television service at buildings subject to the Agreement. A competing MVPD unable to use the Conduit System will have to core drill stairwells and hallways to construct a new and redundant conduit system—a process building owners will not tolerate. Moreover, the expense of a redundant conduit system will make it economically impossible for Liberty or any other MVPD to provide a competing cable television service.

Ms. Eileen Huggard  
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The cost of constructing a redundant conduit system can be ameliorated somewhat by the use of hallway molding. However, it has been Liberty's experience that building owners loathe hallway molding and will not, if given the choice, allow its installation. Liberty's experience has been confirmed by numerous co-ops that have vigorously resisted the installation of hallway molding in their buildings by Paragon and Manhattan Cable. See In the Matter of the Application of 86th Street Tenants Corp., Fifty-First Beekman Corp., 19 East 88th Street, Inc., 145 East 84th Street Owners Corp., 650 Park Avenue Corp., 45 East 72nd Street, Inc., Phoenix Owners Corp. and 555 Park Avenue, Inc. v. The New York State Commission on Cable Television, Paragon Cable Manhattan and Time Warner of New York City, New York Supreme Court, New York County, Index No. 105358/93. Unlike Paragon, Liberty is not able to force unwanted hallway molding on a building owner pursuant to Executive Law § 828.

Paragon's exclusive control of the Conduit System violates Executive Law § 828(3) which prohibits the building owner and Paragon from entering into any agreement "that would have the effect, directly or indirectly of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment." The building resident's right to choose his or her own provider of cable television service is paramount under both state and federal law. The Agreement illegally prevents the exercise of the consumer's fundamental right to choose by controlling the conduit through which that choice is exercised.

Paragon tries to justify its exclusive control over the Conduit System by paying for the installation. However, Paragon has a statutory and Franchise obligation to pay for the installation of the Conduit System even in the absence of any exclusive agreement. See Executive Law § 828(1)(a)(ii), and Paragon's Franchise at Section 3. Paragon is specifically barred by Executive Law § 828(1)(b) from receiving or demanding any consideration from a building owner in exchange for installing the Conduit System in the building. Such prohibited consideration includes receiving or demanding the exclusive right to use the Conduit System.

Paragon's exclusive control of the Conduit System precludes building residents from taking advantage of the federal Cable Home Wiring rules in 47 C.F.R. § 76.802. Under the Cable Home Wiring rules, Paragon must, upon the termination of Paragon service, offer to sell its former subscriber sufficient cable within the Conduit System to permit a competing MVPD to provide service. The purpose of this requirement is to promote the

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introduction of competing cable television service by other MVPD's. See Report and Order, In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992 - Cable Home Wiring, MM Docket No. 92-260, FCC 93-73, Adopted February 1, 1993 and Released February 2, 1993.

The effect of Paragon's exclusive control of the Conduit System renders the Cable Home Wiring rules a nullity. A subscriber may, in theory, be able to purchase Paragon's cable in the Conduit System but no other MVPD will be able to connect to that cable because Paragon controls the conduit in which the cable is located. Furthermore, the Agreement expressly provides in § 5 that building residents may not acquire any interest in their Cable Home Wiring and that Paragon can remove Cable Home Wiring from the building upon the termination of service.

The Agreement violates Appendix B, § I(B)(2) of the Franchise which provides "the installation of all cables, wires, or other component parts of the system in any structure will be undertaken in a manner which does not interfere with the operation of any existing MATV, SMATV, MDS, DBS, or other distribution system in said structure, including any conduit used in connection with such other system." (emphasis added) This provision expressly prohibits Paragon from interfering with the shared use of conduits by competing MVPD's.

Paragon's New York City Franchise requires at § 3.2.01 that Paragon "shall [not] discriminat[e], nor permit discrimination between or among any persons, in the availability of services or the rates, terms and conditions thereof." The Agreement discriminates between different building owners and for that reason alone is illegal. The Agreement is a radical departure from Paragon's past installation practices at new buildings under construction. Paragon has not claimed the exclusive right to use conduit systems in new buildings constructed during the 1990's. A careful investigation and examination of Paragon's installation and construction practices—both past and present—will show that the Agreement is discriminatory in violation of § 3.2.01 of the Franchise.

The Agreement violates § 3.3 of the Franchise which provides that Paragon "shall not interfere in any way with, or utilize, any master antenna systems, satellite master antenna system, or any other similar system within any building." Paragon's exclusive control of the Conduit System precludes the installation of competing MVPD systems. Indeed, it was clearly intended to achieve precisely that end. If Paragon were truly

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concerned about interference with its equipment by other users of the Conduit System, it could simply install larger conduit.

The Agreement violates § 8.3 of the Franchise which provides that Paragon "shall not interfere with the ability of each subscriber to utilize his or her television receiver for any normal purpose." In light of the Cable Home Wiring rules, the "normal purpose" of subscribers' television receivers now extends to interconnecting with competing MVPD's. That normal purpose is frustrated by Paragon's exclusive control of the Conduit System.

Liberty respectfully requests that your office investigate the use of the Agreement by Paragon and order the following remedial action: (1) direct Paragon to immediately cease using the Agreement; (2) nullify any executed Agreements, (3) require Paragon to install conduit and appurtenant hardware (e.g. lock boxes) only on a non-exclusive basis and of sufficient size and diameter to accommodate the installation of cable, splitters and associated hardware by at least two (2) other MVPD's and to notify your office and Liberty of such installations at least ninety (90) days in advance. Your prompt attention to this matter and cooperation is appreciated.

Sincerely,



W. James MacNaughton

WJM:lw

Enclosure

cc: John Rigsby, President, Paragon Cable Manhattan  
William Finneran, Chairman  
New York State Commission on Cable Television  
Oliver Koppel, Esq.  
New York Attorney General  
The Hon. Rudolph Guiliani, Mayor  
The Hon. Ruth Messinger, Manhattan Borough President  
Susan Kassapian, Esq., Assistant Commissioner  
Department of Consumer Affairs

## CABLE INSTALLATION AGREEMENT

AGREEMENT dated as of \_\_\_\_\_, 1994 (the "Effective Date") between PARAGON COMMUNICATIONS, a Colorado partnership, d/b/a Paragon Cable Manhattan, and having an office at 5120 Broadway, New York, New York 10034 ("Paragon") and \_\_\_\_\_, having an address at \_\_\_\_\_ ("Owner").

### W I T N E S S E T H:

WHEREAS, Owner is (and hereby warrants to Paragon that it is) the sole owner of certain real property located in the County, City and State of New York designated as Block Lot \_\_\_\_\_ on the Tax Map of New York County and more particularly described in metes and bounds on Exhibit 1 hereto;

WHEREAS, Owner is currently constructing certain buildings, fences, walls and other structures and improvements (collectively, the "Building") upon said real property to be commonly known by street address of \_\_\_\_\_ New York (hereinafter, the "Premises");

WHEREAS, Paragon is in the business of providing cable television and other services within areas including the Premises in accordance with the terms of its franchise agreement with the City of New York (such franchise agreement, as the same hereafter may be supplemented, amended, extended or renewed, the "Franchise Agreement") and otherwise as permitted by applicable provisions of federal, state and local law;

WHEREAS, concurrent with the construction of the Building, Owner desires to provide for the construction of an internal conduit system, including vertical conduits and horizontal conduits to each unit in the Building, as more particularly described on Exhibit A annexed hereto, suitable for use by Paragon in providing franchised cable television and other services to residents of the Building (the "Conduit System");

WHEREAS, Owner has requested that Paragon cooperate with Owner while the Building is in development and prior to the Building's occupancy by any tenants and that Paragon during such period (A) design and install the Conduit System in the Building, and (B) install (i) wires and cables and other components of Paragon's cable television system inside the Conduit System and (ii) such other equipment, including, without limitation,



additional cables and wires, amplifiers, converters, splitters, taps, junction boxes, pull boxes, lock-boxes, cable terminal wall plates, and devices appurtenant to the foregoing (materials and equipment from time to time included in the preceding clauses (i) and (ii), as the same may be replaced or supplemented during any period that the Building is being serviced, collectively, the "Cable Facilities"), in order that Paragon may provide cable television and other services to each unit within the Building in accordance with the terms of the Franchise Agreement and otherwise as permitted under applicable provisions of federal, state and local law;

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, Owner and Paragon hereby covenant and agree as follows:

1. Design of the Conduit System. Paragon shall design, or at Owner's election shall assist an architect or contractor designated by Owner to design, the Conduit System. The plans for the Conduit System shall be subject to the approval of Paragon and Owner. Following joint approval, the plans shall be annexed to and be deemed incorporated in this Agreement as Exhibit A, and shall not be subject to modification except upon the joint written approval of both Paragon and Owner or Owner's designated architect or contractor.

2. Installation of Conduit System and Cable Facilities. (a) Upon joint approval of the plans for the Conduit System, Paragon shall cause the Conduit System to be installed in the Building in conformance with such plans. Installation work shall be carried out, to the extent feasible, at times permitting coordination with other ongoing Building-related construction performed by Owner. Paragon shall bear the entire cost of the Conduit System, including labor and materials.

(b) Paragon, at its sole expense, shall install the Cable Facilities in and appurtenant to the Conduit System, as well as such equipment as is necessary to activate the Cable Facilities. The Cable Facilities shall be installed concurrently with or within a reasonable time after the completion of the Conduit System or portions thereof, as Paragon deems appropriate.

(c) For purposes of subsections (a) and (b) above, Paragon, at its sole expense, may utilize the services of one or more contractors to be chosen by Paragon, provided that Paragon shall supervise the work of any such contractors to insure that the work is carried out in conformance with the plans and in a good and workmanlike manner.

(d) Following completion of the work contemplated by this paragraph, Paragon shall activate the Cable Facilities and perform such tests and inspections in and about the Premises in respect of the Cable Facilities and the Conduit System which

it deems appropriate to permit cable television service to be made available through the Conduit System to residents and tenants as and when they occupy the Building.

3. Maintenance and Repair of the Conduit System; Owner's Property. Subject to the rights and privileges of Paragon under this Agreement, as between Owner and Paragon the Conduit System shall upon installation be and remain the property of Owner. If subsequent to Paragon's commencement of service to residents of the Building, Owner fails to repair or restore the Conduit System within a reasonable time following its receipt of any notice from Paragon that such repairs or restoration are required, Paragon, at its sole option, may (i) effectuate such repairs or restoration or (ii) bypass any malfunction or defect in the Conduit System by removing, replacing and/or relocating any equipment or component of the Cable Facilities or installing any additional equipment, splitters, taps, wires, moldings, conduits, cables, amplifiers, and all devices appurtenant thereto (the "Additional Equipment") into, out of, across, through, on, over, or under the Building or the Premises. The location of any Additional Equipment to be installed shall be subject to Owner's approval, which shall not be unreasonably withheld or delayed.

4. Easements, Rights and Privileges. (a) Owner hereby grants Paragon, its employees and independent contractors an easement for access in, to, through, on and over the Conduit System and such portions of the Premises as must reasonably be accessed in order to perform the work and provide the services contemplated hereunder, including the installation, maintenance, repair or replacement of any portion of the Cable Facilities or the removal of any portion of the Cable Facilities that Paragon in its sole discretion determines to be no longer necessary.

(b) Paragon represents, and Owner acknowledges, that in order for Paragon to provide optimal service through the Conduit System, the Conduit System must be kept secure and free of interference from other persons or entities not under the control of Paragon. For this reason and to protect Paragon's substantial investment in equipment and facilities in and appurtenant to the Conduit System, and in consideration of Paragon's substantial efforts and expenditures in designing and installing the Conduit System in the Building prior to its occupancy, Paragon's right and privilege to utilize, and install equipment or facilities in, the Conduit System, including inside any junction boxes, pull boxes, lockboxes, or gem boxes appurtenant to the Conduit System, shall be exclusive, and Owner shall not permit any other person to utilize, or install equipment or facilities in or appurtenant to, the Conduit System without Paragon's prior written consent.

(c) In order to amplify and effectuate certain of the rights and easements contemplated under or granted pursuant to this Agreement, Owner and Paragon shall execute, acknowledge, and deliver the "Easement Agreement", a copy of which is annexed

hereto as Exhibit B, together with any other real property returns, affidavits or forms necessary in order to record such Easement Agreement among the land records of the county in which the Premises is located.

5. Paragon's Property; Non-Interference; Work by Paragon. (a) The Cable Facilities and any Additional Equipment shall, as between Paragon and Owner, remain the sole property of Paragon, and nothing herein shall be deemed to create any property interest herein in Owner or any other person or entity. Without in any way limiting the inclusiveness of the terms Cable Facilities and Additional Equipment as defined above and Paragon's property rights therein, it is specifically acknowledged by the parties that any and all junction boxes, pull boxes, and/or lockboxes installed by Paragon in common areas of the Building to house Paragon's taps, splitters, connectors, or cables shall remain the sole property of Paragon. Upon termination of this Agreement, Paragon shall be entitled at its option to remove all or any portion of the Cable Facilities and any Additional Equipment. Any and all costs incurred in the installation, maintenance, repair and removal of the Cable Facilities and any Additional Equipment shall be borne by Paragon.

(b) Neither Owner nor anyone acting by or under the Owner's authority shall (i) tamper, interfere or interconnect with, make any alterations to, or remove or (ii) knowingly suffer or permit any party not specifically so authorized in writing by Paragon to tamper, interfere or interconnect with, make any alterations to, or remove any part of the Cable Facilities or Additional Equipment.

(c) Paragon reserves the right at any time during the term of this Agreement to affix or incorporate locks and security devices and identifying labels or legends on any and all of its Cable Facilities and Additional Equipment for the purpose of protecting the integrity of Paragon's service and the security of its property and/or to assist Paragon technicians in carrying out maintenance, repairs, installations, and disconnections at the Building. Failure to affix or incorporate a lock or security device or a label or legend to any Cable Facilities or Additional Equipment shall not imply that Paragon has relinquished title to or abandoned ownership of any such property. Owner shall not remove, damage, or deface, or suffer any other person to remove, damage, or deface, any identifying label or legend or any lock or security device affixed or incorporated by Paragon pursuant to this Agreement.

(d) All work performed by Paragon pursuant to this Agreement shall be performed in a good and workmanlike manner. Paragon shall be liable for any damage done to the Premises and caused by the installation, operation, maintenance, repair or removal of the Cable Facilities or any Additional Equipment. At Owner's request, Paragon shall provide Owner with

a Certificate of Insurance covering Paragon against bodily injury or property damage liability with a combined single occurrence limit of \$1,000,000.

6. Modification, Waiver, etc. This Agreement (including the exhibits hereto) embodies the entirety of the understandings of the parties in respect of the subject matter hereof and supersedes any prior agreements, promises, proposals, representations, negotiations or understandings between the parties regarding the subject matter hereof. No modification or amendment to or waiver of this Agreement shall be binding or effective unless it is in writing and executed by the parties hereto. No waiver of any breach of any provision of this Agreement or of any default hereunder shall be deemed a waiver of any other breach or default of this Agreement.

7. Term. This Agreement shall remain in effect for so long as Paragon is authorized to provide cable television or other services in the area of the City that includes the Premises and for so long as the Building is located on the Premises.

8. Notices. All notices required or permitted under this Agreement shall be in writing and shall be sent by United States Mail, certified, return receipt requested, addressed as set forth below, and shall be deemed to have been duly given when delivered or when delivery is rejected as evidenced by the return receipt, provided, however, that when delivery is received on any day which is a Saturday, Sunday or legal holiday in the State of New York (all other days being considered "business days"), delivery shall be deemed to have been made on the next succeeding business day.

If to Paragon, at:

Paragon Cable Manhattan

5120 Broadway

New York, New York 10034

Attn: Director of Real Estate

with a copy to the same address to the attention  
of the Office of the General Counsel

If to Owner, at:

with a copy to:

The name or address of any party to receive notice may be changed by delivery of notice to such effect in the manner provided above.

9. Binding Effect. This Agreement and the covenants contained herein shall run with the land and shall inure to the benefit of and be binding upon Paragon's successors and assigns and Owner's successors and assigns owning all or any portion of the Premises; provided, however, that if the Premises are subjected to condominium regime, the board of managers or similar body from time to time exercising control over the common elements of the Building shall alone be entitled to enforce any of the benefits of this Agreement inuring to Owner. Owner shall disclose the existence of this Agreement to any person who purchases or acquires an interest in the Premises or the Building, and in any Offering Plan, Prospectus, or similar offering materials transmitted to any person who purchases or acquires a unit in the Building or stock in a cooperative corporation that may hereafter own the Premises or the Building.

10. Authority. Each individual executing this Agreement by affixing his or her signature hereto thereby warrants and represents that he or she is authorized to execute and deliver the same thereby binding the party for which he or she is so acting.

11. Applicable Laws and Regulations. In the event any provision of this Agreement shall be determined to be void or unenforceable by a court or agency of competent jurisdiction (such determination being no longer subject to review or appeal), the Agreement shall remain in full force and effect as to all other provisions and shall be interpreted and construed so as to accomplish its principal purpose of permitting Paragon to provide safe, adequate, and reliable service to residents and lawful occupants in accordance with applicable laws, regulations, and franchise requirements. Nothing herein shall constitute a waiver by Paragon of its rights under any laws or regulations affecting the installation, operation or removal of cable television facilities and the provision of service.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

PARAGON COMMUNICATIONS, d/b/a  
Paragon Cable Manhattan

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_

FOR OWNER

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_

EXHIBIT 1

TO AGREEMENT BY AND BETWEEN  
PARAGON COMMUNICATIONS,  
d/b/a/ Paragon Cable Manhattan, and

[Metes and bounds description of the Premises]

EXHIBIT A

TO AGREEMENT BY AND BETWEEN  
PARAGON COMMUNICATIONS,  
d/b/a Paragon Cable Manhattan, and

[Approved Plans]



EXHIBIT B

TO AGREEMENT BY AND BETWEEN  
PARAGON COMMUNICATIONS,  
d/b/a Paragon Cable Manhattan, and

[Easement Agreement]

## EASEMENT AGREEMENT

AGREEMENT effective as of \_\_\_\_\_, 1994 by and between PARAGON COMMUNICATIONS, a Colorado partnership, d/b/a Paragon Cable Manhattan, and having an office at 5120 Broadway, New York, New York 10034 ("Paragon") and \_\_\_\_\_, having an address at \_\_\_\_\_ ("Owner").

### W I T N E S S E T H:

WHEREAS, Owner, as the owner of a certain plot or parcel of real property commonly known as \_\_\_\_\_ New York, New York, located in the County, City and State of New York, designated as Block \_\_\_\_\_ Lot \_\_\_\_\_ on the Tax Map of New York County, and more particularly described in metes and bounds on Exhibit 1 annexed hereto, together with certain buildings, fences, walls and other structures and improvements (collectively, the "Building") constructed or being constructed upon said real property (the "Premises"), and Paragon, as the operator of a business providing cable television and other services within areas including the Premises in accordance with the terms of its franchise agreement with The City of New York (such franchise agreement, as the same hereafter may be supplemented, amended, extended or renewed (the "Franchise Agreement") and otherwise as permitted by applicable provisions of federal, state and local law, have entered into a certain agreement, dated as of \_\_\_\_\_, 1994 (the "Basic Agreement"), providing for the installation in the Building of an internal conduit system, more particularly described in the Basic Agreement (the "Conduit System"), and the installation, monitoring, maintenance, service, repair, restoration, replacement, and removal by Paragon of certain "Cable Facilities" together with certain "Additional Equipment", all more particularly described in the Basic Agreement; and

WHEREAS, pursuant to the Basic Agreement Owner has agreed to grant to Paragon certain rights, privileges and easements, in respect of the Conduit System and the Building for the respective purposes hereinafter described and upon the terms and provisions hereafter set forth;

NOW, THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner does hereby grant to Paragon, its heirs, administrators, executors and assigns the following irrevocable easements on, in, to, over and

under such portions of the Premises hereinafter described; and Owner and Paragon hereby covenant and agree as follows:

1. Owner hereby grants to Paragon the sole and exclusive right, privilege and easement to utilize the Conduit System for all purposes permitted under the Basic Agreement.

2. Additionally, Owner hereby grants to Paragon, its employees and agents the right, privilege and easement to construct, install, maintain, inspect, replace, restore or relocate all components constituting the Cable Facilities and any Additional Equipment in and through the Premises for all purposes permitted under the Basic Agreement and in connection therewith the right, privilege and easement to Paragon, its employees and independent contractors to ingress and egress to and from the Building.

3. Neither Owner nor anyone acting by or under Owner's authority shall (i) tamper, interfere or interconnect with, make any alterations to, or remove, or (ii) knowingly suffer or permit any party not specifically so authorized in writing by Paragon to tamper, interfere or interconnect with, make any alterations to, or remove any part of the Cable Facilities, or any Additional Equipment.

4. The Cable Facilities and any Additional Equipment shall, as between Paragon and Owner, remain the sole property of Paragon, and nothing herein shall be deemed to create any property interest herein in Owner or any other person or entity. Upon termination of the Basic Agreement, Paragon shall be entitled at its option to remove all or any portion of the Cable Facilities and any and all Additional Equipment. Any and all costs incurred in the installation, maintenance, repair and removal of the Cable Facilities and any Additional Equipment shall be borne by Paragon.

5. Paragon shall have and hold the easements granted hereby for so long as Paragon is authorized to provide cable television or other services in the area of the City that includes the Premises. Owner hereby warrants to Paragon that it is fully authorized to enter into this Agreement and grant the easements contemplated herein.

6. In the event any provision of this Agreement shall be determined to be void or unenforceable by a court or agency of competent jurisdiction (such determination no longer being subject to review or appeal), the Agreement shall remain in full force and effect as to all other provisions and shall be interpreted and construed so as to accomplish its principal purpose of permitting Paragon to provide safe, adequate, and reliable service in accordance with applicable laws, regulations, and franchise requirements. Nothing herein shall constitute a waiver by Paragon of its rights under any laws or

regulations affecting the installation, operation or removal of cable television facilities and the provision of service.

7. This Easement Agreement together with the Basic Agreement alone embody the understandings of the parties in respect of the subject matter hereof and supersede any prior agreements, promises, proposals, representations, negotiations or understandings between the parties regarding the subject matter hereof. No modification or amendment to or waiver of this Agreement shall be binding or effective unless it is in writing and executed by the parties hereto. No waiver of any breach of any provision of this Agreement or of any default hereunder shall be deemed a waiver of any other breach or default of this Agreement.

8. This Agreement and the covenants contained herein shall run with the land and shall inure to the benefit of and be binding upon Paragon's successors and assigns and Owner's successors and assigns owning all or any portion of the Premises; provided, however, that if the Premises are subjected to condominium regime, the board of managers or similar body from time to time exercising control over the common elements of the Building shall alone be entitled to enforce any of the benefits of this Agreement inuring to Owner.

9. Each individual executing this Agreement by his or her signature hereto thereby warrants and represents that he or she is authorized to execute and deliver the same thereby binding the party for which he or she is so acting.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement to be effective as of the date first above written.

PARAGON COMMUNICATIONS,

Witness:

d/b/a Paragon Cable Manhattan

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name:

(Title)

Dated: \_\_\_\_\_

[OWNER]

Witness:

By: \_\_\_\_\_

\_\_\_\_\_

Print Name:

Print Name:

Print Title:

Dated: \_\_\_\_\_

~